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## **Editorial: Youth Justice in Ireland North and South: Legacies of the past, influences on the present**

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## **Youth Justice in Ireland North and South**

### **Legacies of the past, influences on the present**

**Nicola Carr and Siobhán McAlister**

Youth justice systems and practices in Ireland have traditionally been shaped by the socio-political context, impacted by religious and moral imperatives and prolonged political conflict. The criminal justice systems and the response to children and young people in conflict with the law in the Republic of Ireland and Northern Ireland have common antecedents and many shared historical legacies – including a shared legislative framework (*Children Act, 1908*) and the reformatory and industrial school system, (which has been the subject of recent historic inquiry on both sides of the border).

Following partition in 1920 which led to the establishment of two separate jurisdictions, there was a significant period of stagnation in criminal justice policy within the Republic of Ireland, particularly in the sphere of youth justice with new legislation to replace the 1908 Act only coming into place in 2001 (*Children Act, 2001*) (Kilkelly, 2007). The history of ‘coercive confinement’ in the Republic of Ireland marked by high rates of child and youth incarceration and the longevity of the institutional template have been documented (O’Sullivan and O’Donnell, 2007, 2012). The emergence of a children’s rights discourse, particularly in the context of the unearthing of wide scale abuse within state institutions, has had a profound effect on official discourse and the policy response to young people in conflict with the law (Kilkelly, 2006).

The development of the state response to young people in conflict with the law within Northern Ireland has broader parallels with other UK jurisdictions (particularly England and Wales) up until the 1960s, but is overlaid by the subsequent security/criminal justice response to civil and political conflict from this period onwards. The effects of the Conflict on the criminal justice system, including the co-option of the agencies within the system to manage and contain it, has been the subject of numerous research studies (e.g. Ellison and Smyth, 2000; Gormally et al,

1993; Tomlinson, 2012). Considerations of the youth justice system have tended to focus on the context of conflict transformation and the post-conflict period (e.g. Doak & O'Mahony, 2012; O'Mahony, 2012).

A review of the criminal justice system was a fundamental component of the Northern Ireland peace process (1998), among other things leading to the establishment of a new police force and the enactment of a raft of new legislation. As part of this new administrative structures were established for the management of the youth justice system. Restorative justice measures were brought under the ambit of the state becoming the main disposal for young people in conflict with the law. The restorative justice youth conferencing model has been lauded in many quarters and viewed as a model of good practice that should be emulated elsewhere in the United Kingdom (e.g. Jacobson and Gibbs, 2009; McVie, 2011). However, more critical questions regarding the concept of 'justice', the meaningfulness of 'restoration' and the impacts of bringing community-based models under formal/ statutory guidance and controls, have received limited attention.

A great deal of literature has focussed on the developments in the youth justice system in England throughout the 1990s, which were marked by policy hyperactivity that brought greater numbers of young people into the system (e.g. Goldson, 2010). However, it is notable that in the same period that England and Wales was experiencing a marked growth in its youth custodial population (i.e. in the mid 1990s to early 2000s), the custodial populations of Northern Ireland and the Republic of Ireland were rapidly declining. This alongside the systemic changes described above suggests a differential patterning of youth justice in the different jurisdictions comprising the UK and the Republic of Ireland.

Such distinct approaches towards youth justice within the different jurisdictions have been the subject of increased attention (Goldson & Hughes, 2010; Muncie, 2011). Calls for attention to specificity have been made alongside analyses that document the expanse of policy transfer and question whether in fact in a post-devolution United Kingdom there is more the 'illusion of difference' than claims for distinctiveness suggest (Muncie, 2011). Here it is argued that beneath the edifice of

systems there is much more commonality evident in discourses and the operationalisation of rationales - whether these be risk orthodoxies, rights discourses, the rentrenchment of welfarism or the promise of restoration.

Muncie (2011) also raises the intriguing point about within-jurisdiction variation, highlighting the fact that there may be more variation between different geographical regions in the same jurisdictions than between different jurisdictions. These localised differences suggest that there are complex interplays of factors between, national or centralised development of policies and their translation into practice at the local level. Such complexity it is argued requires a more sophisticated analysis than one that merely tries to capture similarities or differences, (so-called nomothetic or idiographic approaches), between jurisdictions (Edwards and Hughes, 2005; Muncie, 2011).

Edwards and Hughes (2005) propose a 'geo-historical' approach to comparative analysis arguing that in order to understand the translation of central government policies into practice, one must pay attention to the networks of governance, the manner in which power circulates, and the way that discourse brings particular objects and subjects to light in very specific contexts. We would add to this the importance of considering how youth justice interventions are experienced in practice and indeed how they relate to other social policy domains (e.g. social welfare, education and child protection).

The question of how youth justice in Northern Ireland and the Republic of Ireland has been patterned by historical experiences, networks of governance and the manner in which power circulates and is ultimately experienced is considered in the contributions to this special issue. Kilkelly (2014) charts the implementation of the *Children Act, 2001* in the Republic of Ireland, noting that this landmark legislative reform has not been fully implemented, and indeed in some respects has been subverted in practice. Highlighting the divergence between law as enacted and law as practiced, her paper points to the particular system contexts and networks of governance that have coalesced to produce these effects.

In an analysis of Northern Ireland's Early Intervention Programme for the Prevention of Offending, Haydon (2014) also demonstrates the disjuncture between policy, discourse and practice. While framed in welfarist terms, the underpinning emphasis of these interventions is one of responsabilisation and ultimately the criminalisation of social need. Haydon's (2014) work draws our attention to the melding rationalities that bring subjects to light and provides the impetus for targeted intervention towards particular families and communities. Noting the spread of policy transfer it also points to the similarities with other jurisdictions.

Differences between discourse and practice are also highlighted in McAlister and Carr's (2014) account of young people's experiences of the youth justice system in Northern Ireland. The rhetoric of restoration, a powerful emblem of a post-conflict youth justice system, is considered critically in light of young people's experiences of restorative justice conferences and interventions, where the promise of restoration for some is an empty one. Here we see that a range of rationalities including responsabilisation, restoration, punishment and risk management coalesce to give justice its felt effect. In this respect differences in experiences of justice may indeed be more illusory than system descriptors may suggest.

The need to understand the situated context of young people who come into contact with youth justice systems is highlighted in a number of the contributions. And these situated contexts are shaped by personal, social and political histories. Through the lens of youth transitions, Corr (2014) argues that the focus should be wider than young people's 'criminal careers' - taking into account education, employment and leisure opportunities. Linking biographical narratives with these wider socio-economic contexts is key to understanding the lives of young people and the constraints on their opportunities. In Corr's study we see some of the direct impacts of the demise of the Celtic Tiger. For young people on the margins who did not benefit from the economic boom, the economic bust was still profoundly felt.

Harland and McCready (2014) also document the impact of social exclusion on the lives of young men in Northern Ireland. The legacy of political conflict remains a lived reality for many young people growing up following the peace process. However,

continued experiences of sectarianism, paramilitary punishments and the perceived normality of violence effect the lives of young people and their interactions with the criminal justice system. Harland and McCready (2014) make the argument for a greater attunement towards young people and the need to foster a greater degree of connection between policy and practice. They also note the value of youth work methodology and propose a model of practice where the voices of young people are central.

The particular historical contexts of the emergence and development of youth justice systems in Northern Ireland and the Republic of Ireland have undoubtedly shaped the contours of these systems in particular ways. However, the contributions to this special edition highlight themes that have wider resonance. These include the disjuncture between policy, practice and experience, the melding of different rationales within the youth justice sphere and wider failures to address social need. Material disadvantage, 'leisure poverty', adverse family circumstances, unemployment and lack of opportunities, trauma, lack of safety and security and unmet health needs are issues that emerge in all of the empirically-based papers. As in research that has gone before, they again attest to the fact that it is the most 'disadvantaged, damaged and distressed' children and young people who are most typically in contact with the criminal justice system (see Goldson and Muncie, 2008: 63).

Developments in both the North and South of Ireland show an official emphasis on prevention, diversion, restoration and participation, but we see problems in how this is conceived, enacted and institutionalised. In practice there is in fact a greater emphasis on individual responsibility and an elision of social and structural needs. All of this highlights the fact that youth justice is a sphere of governance in which power circulates from policy decisions to practice to enactment and ultimately to how it is experienced.

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